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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,600	01/24/2006	Gabriel Narcy	4590-480	2852
33308 7590 10/16/2007 LOWE HAUPTMAN & BERNER, LLP 1700 DIAGONAL ROAD, SUITE 300 ALEXANDRIA, VA 22314				
EXAMINER				
JOHNSON, STEPHEN				
ART UNIT		PAPER NUMBER		
3641				
MAIL DATE		DELIVERY MODE		
10/16/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,600

Applicant(s)

NARCY ET AL.

Examiner

Stephen M. Johnson

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 24 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/5506)
Paper No(s)/Mail Date 1/2006; 8/2006
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Art Unit: 3641

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 5 and 9 are rejected under 35 U.S.C. 112, first paragraph, as **failing to comply with the written description requirement**. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicant's invention does not contain an embodiment where the semi-reflecting plate is transmitted in the first optical channel and reflected in the second optical channel.

3. Claims 5 and 9 are rejected under 35 U.S.C. 112, first paragraph, as **failing to comply with the enablement requirement**. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicant's invention does not contain an embodiment where the semi-reflecting plate is transmitted in the first optical channel and reflected in the second optical channel.

4. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 8, it is not understood as to what is meant by the phrase "giving, from the intensified image". In claim 1, lines 6-9, it is not understood as to how the claimed "a first collimated image" is intended to subsequently claimed "first optical channel". Please clarify.

In claim 2, lines 5 and 6; and in claim 3, lines 5 and 7; the phrases “the exit pupil”; “the entrance pupil”; and “the pupil” lack antecedents. In claims 2 and 3, what structural items are intended to correspond to the claimed “the exit pupil”; “the entrance pupil”; and “the pupil”? In claim 2, line 6, the phrase “the objective” is inappropriate because objective lens 11 and not objective lens 22 is intended.

In claim 3, lines 2-3, the phrase “the image transfer optic” and “the semireflecting plate” lack antecedents. In claim 3, line 6, the phrase “the body” lacks an antecedent.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6, 8, and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carmeli (434) in view of Isbell et al. (821).

Carmeli (434) discloses an aiming sight comprising:

- | | |
|--|-------------------------|
| a) an objective lens; | 18 |
| b) an image intensifier to be located adjacent the objective lens; | 12; col. 5, lines 6-15 |
| c) a mechanical assembly; | see fig. 2 |
| d) a sight camera with optical axis parallel to objective lens axis; | 32 |
| e) a first optical channel; | 30, 31, 32 |
| f) a second optical channel; | 34 |
| g) first image sent to the camera; | 32; col. 6, lines 40-55 |
| h) second image sent to eyepiece; | col. 5, lines 33-38 |

i) image transfer optic;	19
j) a semi-reflecting plate;	26
k) a first relay optic;	29
l) a first eyepiece;	31
m) a second relay optic and second eyepiece; and	20 or 11
n) image inversion.	col. 6, lines 47-49

Carmeli (434) applies as recited above. However, undisclosed is an interface associated with the mechanical casing for attaching the aiming sight to a weapon. Isbell et al. (821) teach an interface associated with the mechanical casing for attaching the aiming sight to a weapon (see fig. 16). Applicant is selecting a usage for an imaging sight that is commonly known in this art as demonstrated by Isbell et al. and putting it to use as it is already commonly known to be used in this art with expected or predictable results. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Isbell et al. to the Carmeli aiming sight and have an aiming sight used and attached to a weapon.

7. Claims 7 and 14-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be reached on Tuesday through Friday.

Art Unit: 3641

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.

/Stephen M. Johnson/
Primary Examiner, Art Unit 3641

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ
October 2, 2007